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OFFICE OF PETITIONS

In re
Wittwer, et al.
Application No. 09/132,156
Filed: August 11, 1998
Patent No. 6,787,338
Issued: September 7, 2004

: DECISION REGARDING
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed October 12, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent from one hundred seventeen (117) days to one hundred eleven (111) days.

The request is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ten (110) days**.

As a Continued Prosecution Application (CPA) was filed in the instant application on January 22, 2001, the application is entitled to the benefits of the patent term adjustment provisions of 35 U.S.C. §154(b) and 37 C.F.R. §§1.702 through 1.705.¹

¹ See MPEP 2730.

On September 7, 2004, the above-identified application matured into U.S. Patent No. 6,787,338. The patent issued with a Patent Term Adjustment of 117 days.

However, as pointed out in the application for patent term adjustment, a review of the file reveals that applicant should have incurred delay of seventy-three (73) days pursuant to 37 C.F.R. §1.704(b), not sixty-six (66) days, for the filing of an amendment on September 15, 2003.

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate.

Give the basis for granting this decision, no fee is required. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office. The \$400 submitted for the petition has been refunded to Deposit Account No. 50-2319.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred ten (110) days** subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: draft Certificate of Correction